

**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No. 200400756

Issuance Date:

July 15, 2005

Stream: MCLuney Creek

Closing Date:

August 16, 2005

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency (OEPA) to act on Section 401 Water Quality Certification for the following application:

APPLICANT: Oxford Mining Company, Inc.
P.O. Box 427
Coshocton, Ohio 43812

LOCATION: The proposed project is located north of CR-48 (No. 8 Hollow Road) approximately one-half mile east of SR-345 in Clayton Township, Perry County, Ohio.

DESCRIPTION OF THE PROPOSED WORK: The proposed project includes operation of a surface coal mine that would recover the #5, 6, and 7 coal seams by strip and auger mining methods. Discharges into jurisdictional waters are needed for mine development. Streams would be impacted by mining operations and reclamation of abandoned strip mine lands. Wetlands and open water impoundments would be impacted by reclamation of abandoned strip mine lands. Waters of the U.S. impacts include 0.47 acre of streams (3,457 linear feet), 2.09 acres of wetlands and 4.54 acres of open water (see attached tables for impact description). All fill material is non-acidic, non-toxic shale and sandstone.

The mining operation would surface and auger mine approximately 295 acres, which is a continuation of mining from Oxford's D-1086 permit to the south. Approximately 120 acres having been previously mined and left un-reclaimed. The mining plan proposes to mine through and/or backfill all existing high walls and backfill all existing pit impoundments. All access roads and sediment ponds are proposed to remain permanently. Pre-mining land uses include grazing land, residential and undeveloped. Post-mining land uses include grazing land and undeveloped.

ALTERNATIVE ANALYSIS: This project is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal.

AVOIDANCE & MINIMIZATION: The original scope of the mining permit included a larger area than currently proposed. The original permit area was approximately 500 acres. The original delineation identified the following jurisdictional waters: four (4) wetlands (1.97 acres); two (2) emergent fringe wetlands (0.34 acres); 6,754 feet of stream; and six (6) open water impoundments (4.54 acres). By minimizing the proposed mining plan, impacts to jurisdictional waters will consist of two (2) wetlands (2.09 acres); two (2) emergent fringe wetlands (0.34 acres); 3,457 feet of streams; and six (6) open water impoundments (4.54 acres).

MITIGATION PLAN: The applicant has submitted a conceptual compensatory mitigation plan (CMP) to compensate for permanent impacts to waters of the United States regulated by the United States Army Corps of Engineers which is under review.

The project does not require access to or sitting within the wetlands to fulfill its basic purpose and is considered a non-water dependent activity. The Section 404(b)(1) Guidelines state that for non-water dependent activities, practicable alternatives that do not involve wetlands are presumed to be available unless clearly demonstrated otherwise. The applicant is required to provide an alternative analysis that must overcome the presumption prior to receiving authorization for the placement of fill material. The applicant has submitted the required alternative analysis and it is currently under review.

Plans of the proposed work are attached to this notice.

A section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain the certification from the Ohio Environmental Protection Agency.

HISTORIC AND CULTURAL RESOURCES:

The National Register of Historic Places has been consulted and it has been determined that there no listed properties eligible for the register in the area affected by the project. A copy of this public notice will be furnished to the Ohio State Historic Preservation Office for their review. Comments concerning archeological sensitivity of the project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: The project is located within the known or historic range of the following endangered species:

Indiana Bat

The Huntington District has consulted the most recently available information and based on the proposed avoidance and minimization measures, the project is not likely to adversely affect the Indiana bat or designated Critical Habitat for this federally listed species. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the


record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

Mr. Stan Walker, Regulatory Project Manager
North Regulatory Section, CELRH-OR-FN
U. S. Army Corps of Engineers Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070.

Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Mr. Stan Walker of the North Regulatory Section at 304-399-5210.


Ginger Mullins, Chief
Regulatory Branch

(O)

TYPE(S) OF MATERIAL BEING DISCHARGED AND THE AMOUNT OF EACH TYPE IN
Volume of fill placed below the OHWM is:

Water Body	Designation	Length (lf)	Width (lf)	Area (ac)	Depth below OHWM (in)	Volume below OHWM (cy)
Stream						
D	intermittent	249	5.6	0.03	5.5	23.7
E	intermittent	392	4.6	0.04	10.2	56.8
F	intermittent	294	4.3	0.03	6.7	26.1
G	intermittent	379	6.6	0.06	7.9	61.0
K	intermittent	688	5.5	0.09	5.5	64.2
L	intermittent	529	2.6	0.03	6.3	26.7
M	perennial	926	8.9	0.19	10.6	269.6
Total		3,457		0.47		528.2

Water Body	Designation	Type of Impact	Length (lf)	Width (lf)	Area (ac)	Depth below OHWM (in)	Volume below OHWM (cy)
Wetland							
WL-13	Cat 2 mod.				0.06	16	1,549
WL-16	Cat 2 mod.				1.69	28	76,343
I-9	Cat 2 mod.				0.11	16	2,839
I-10	Cat 2 mod.				0.23	16	5,937
Total					2.09		86,668

Water Body	Designation	Type of Impact	Length (lf)	Width (lf)	Area (ac)	Depth of water body (ft)	Volume below OHWM (cy)
Open Water							
I-1					0.82	3.5	4,630
I-3					0.62	2.5	2,501
I-5					0.16	1.5	387
I-9					0.45	3.0	2,178
I-10					1.33	2.0	4,291
I-11					1.16	3.5	6,550
Total					4.54		20,538

Table 1

A	B	C
D	E	F
G	H	I
J	K	L
M	N	O

Figure 1 (16)

THE FOLLOWING 15 MAPS, LABELED A-O, ARE A TILED VERSION
OF THE ODNR DMRM APPLICATION/HYDROLOGY MAP.

**SHEET
INDEX**

**NEW LEX NORTH
PERMIT APPLICATION**



Linn Engineering, Inc.
Civil Engineering Consultants
P.O. Box 2086 Zanesville, Ohio 43702-2086

740-452-7434

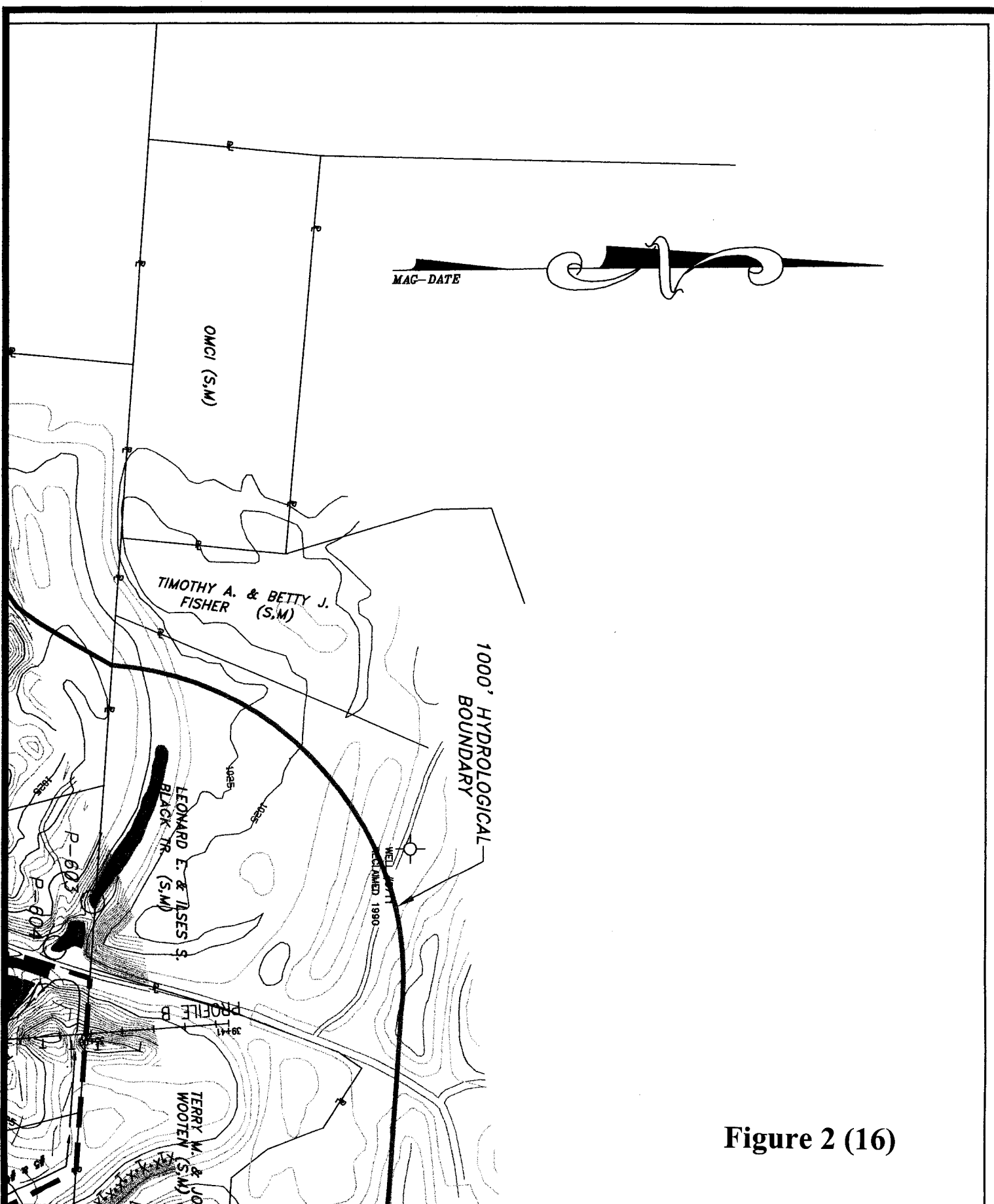


Figure 2 (16)

M	J	G	D	A
N	K	H	E	B
O	L	I	F	C

NEW LEX NORTH
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Figure 3 (16)

A	D	G	J	M
B	E	H	K	N
C	F	I	L	O

NEW LEX NORTH PERMIT APPLICATION



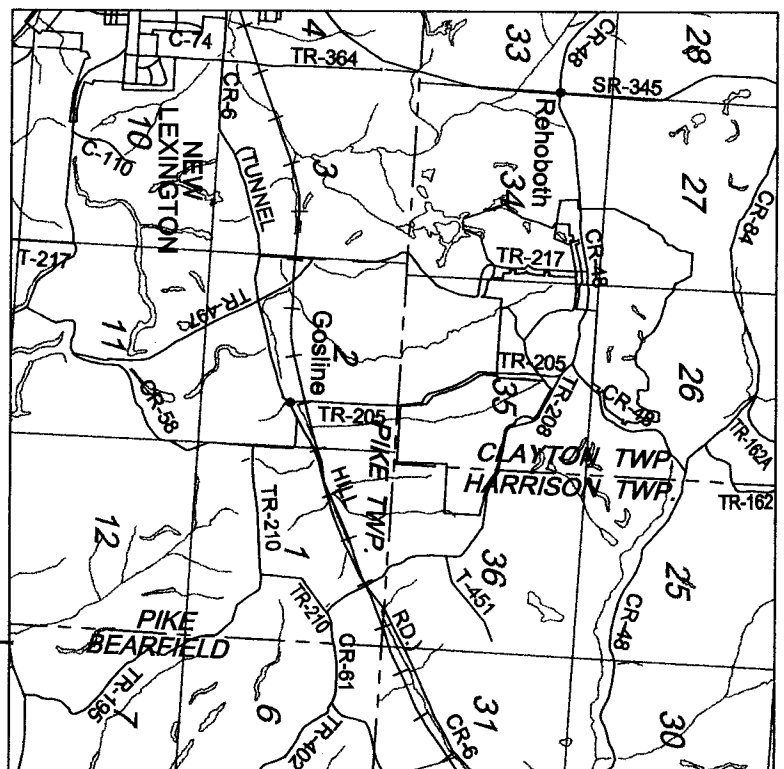
Linn Engineering, Inc.
Civil Engineering Consultants
P.O. Box 2086 Zanesville, Ohio 43702-2086

740-452-7434

Figure 4 (16)

USGS QUAD
NEW LEXINGTON
FULTONHAM

DRAINAGE BASIN
HOCKING RIVER
MUSKINGUM RIVER



LOCATION MAP
SCALE: 1" = 1 MILE

JOSEPH F. FISTER (S,M)

WELL #5038
RECLAIMED 1997

~~GASLINE
GAS CO.
CO.~~

EMERGENCY CALL ext 100
1-541-2299

WILLIAM F. & SAMUEL F.
DENNIS (S.M)

PEOBODY COAL CO. (S-C-NCM)

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P.O. Box 2086 Zanesville, Ohio

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Figure 5 (16)

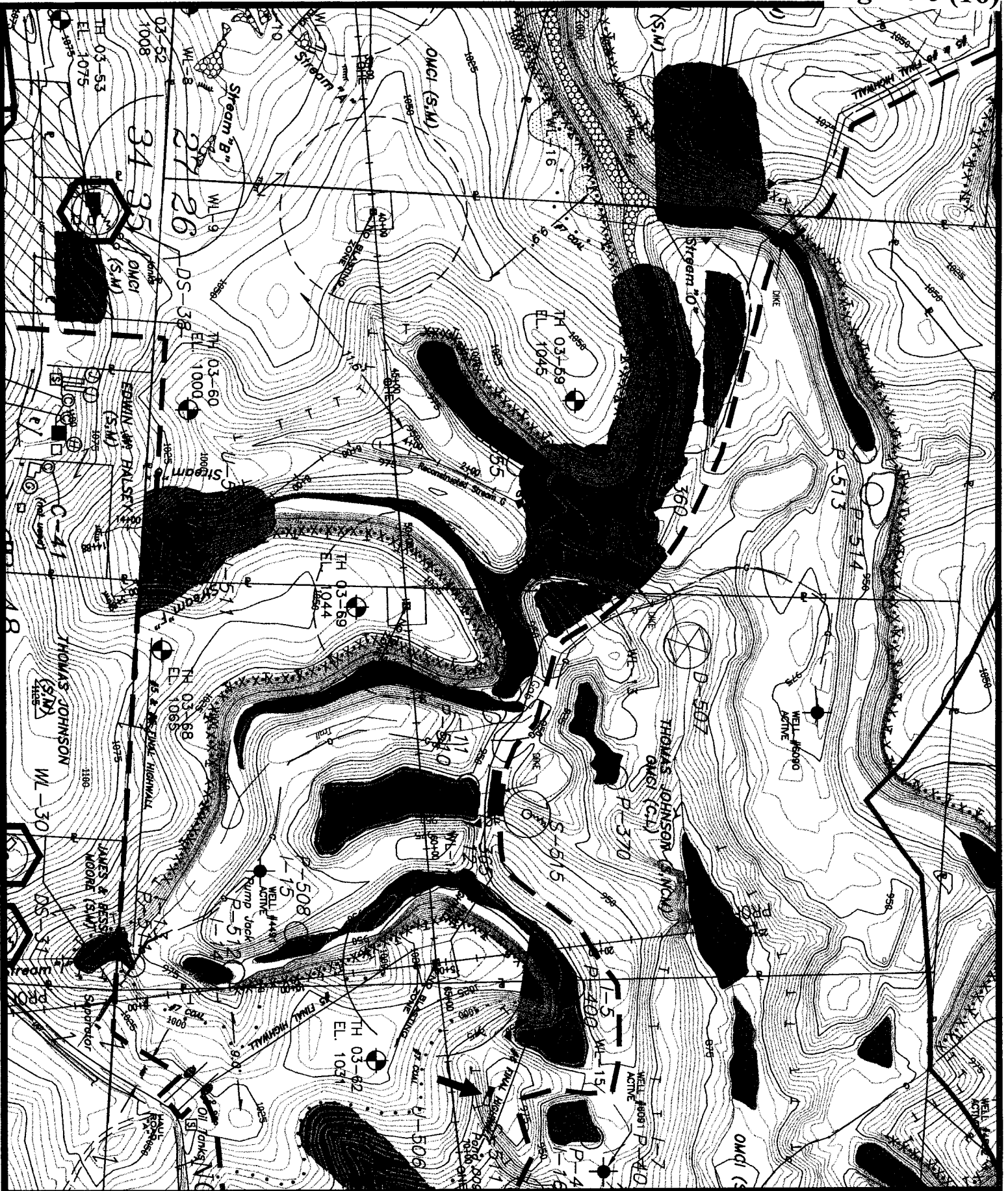


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A	B	C
D	E	F
G	H	I
J	K	L
M	N	O



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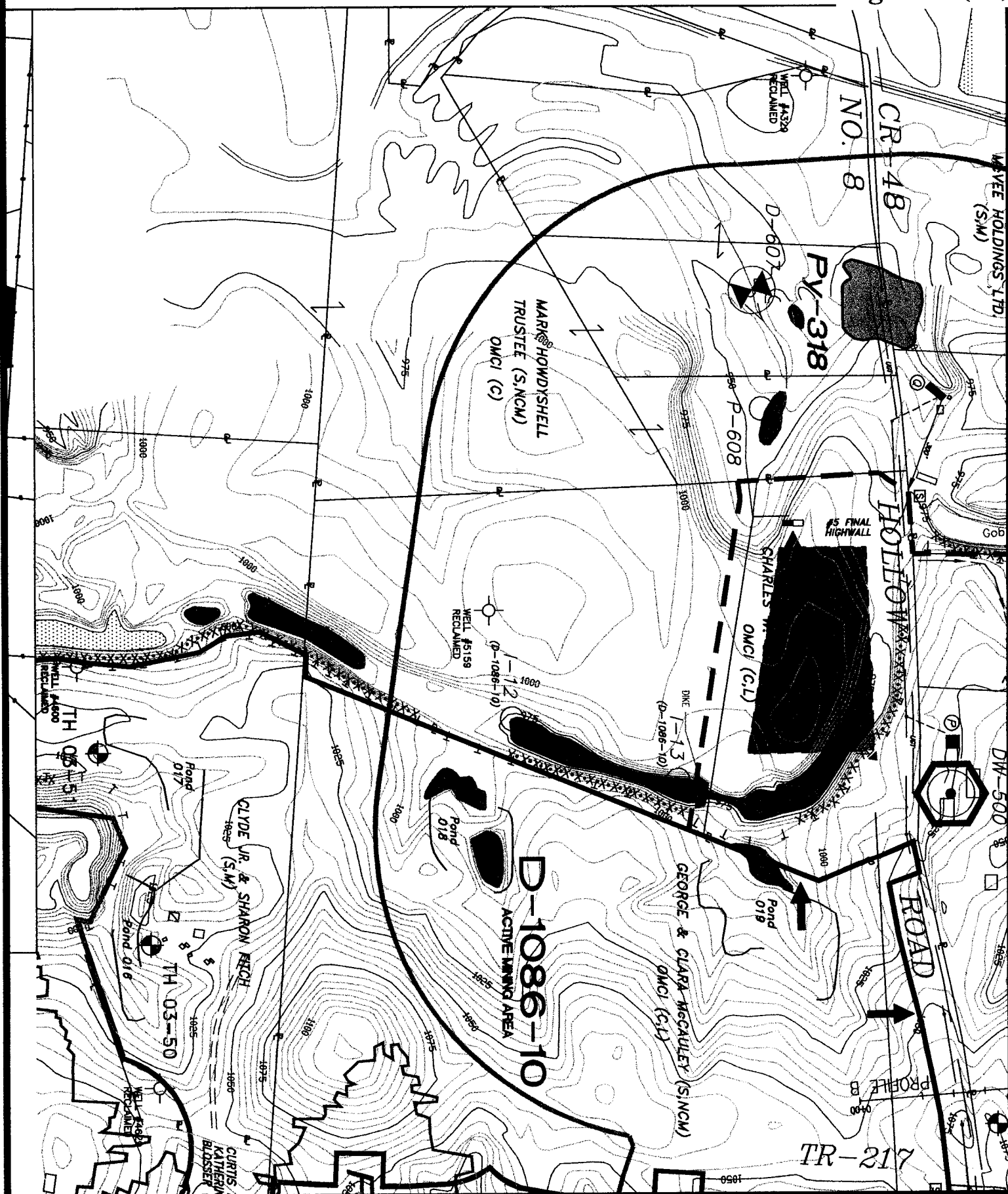


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A	B	C
D	E	F
G	H	I
J	K	L
M	N	O

Figure 8 (16)



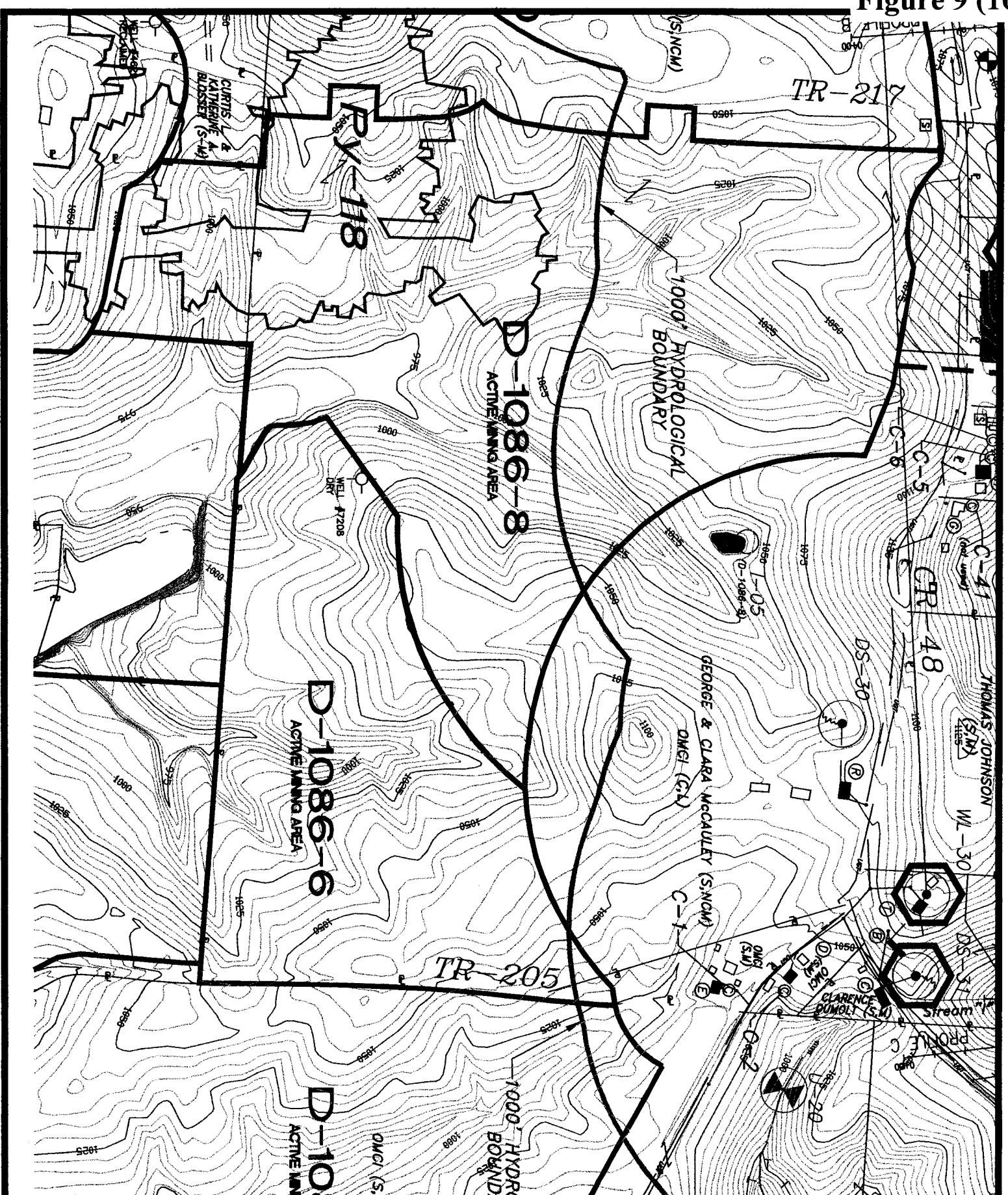
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A	B	C
D	E	F
G	H	I
J	K	L
M	N	O



A	B	C
D	E	F
G	H	I
J	K	L
M	N	O

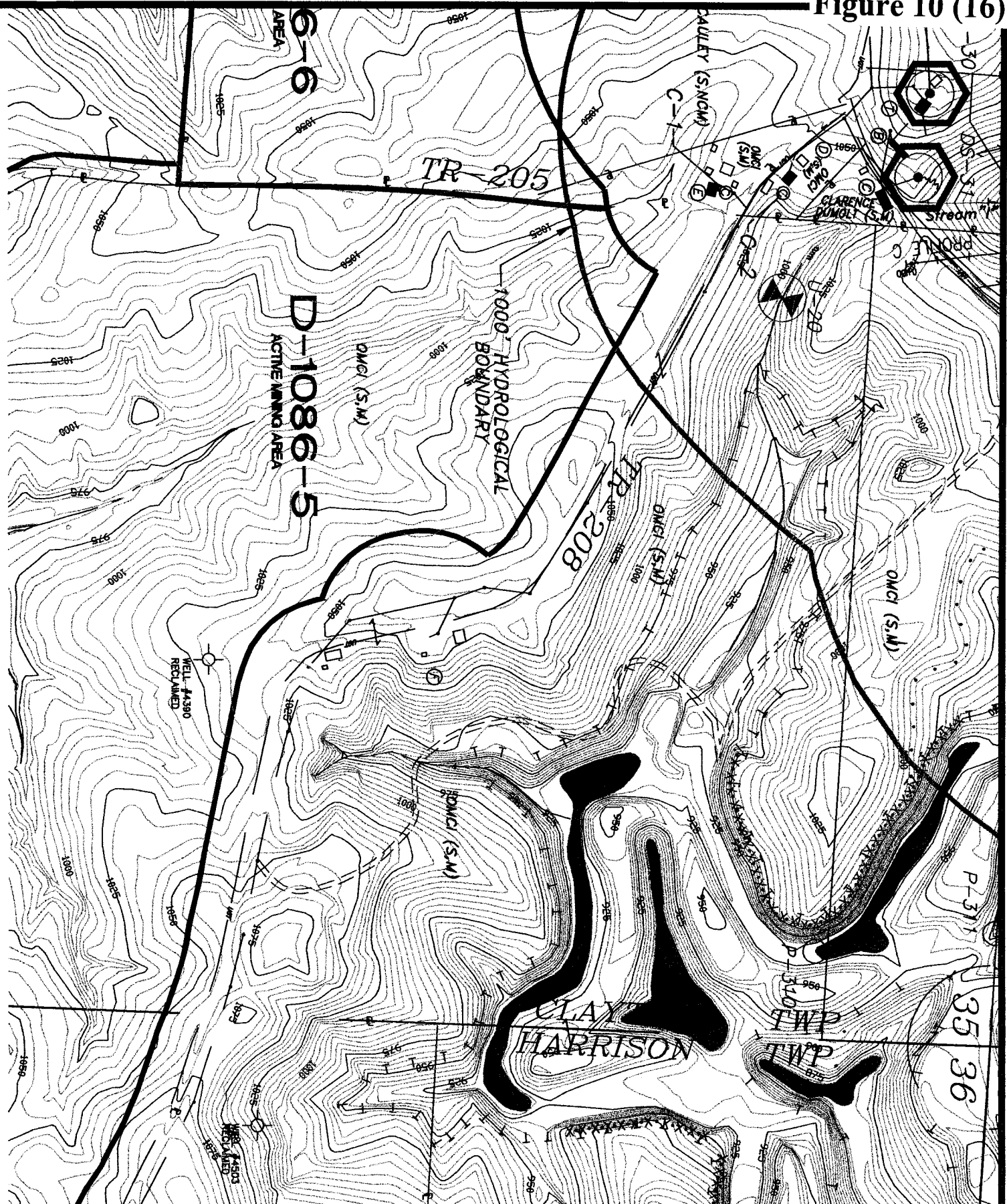
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Figure 10 (16)



A	B	C
D	E	F
G	H	I
J	K	L
M	N	O

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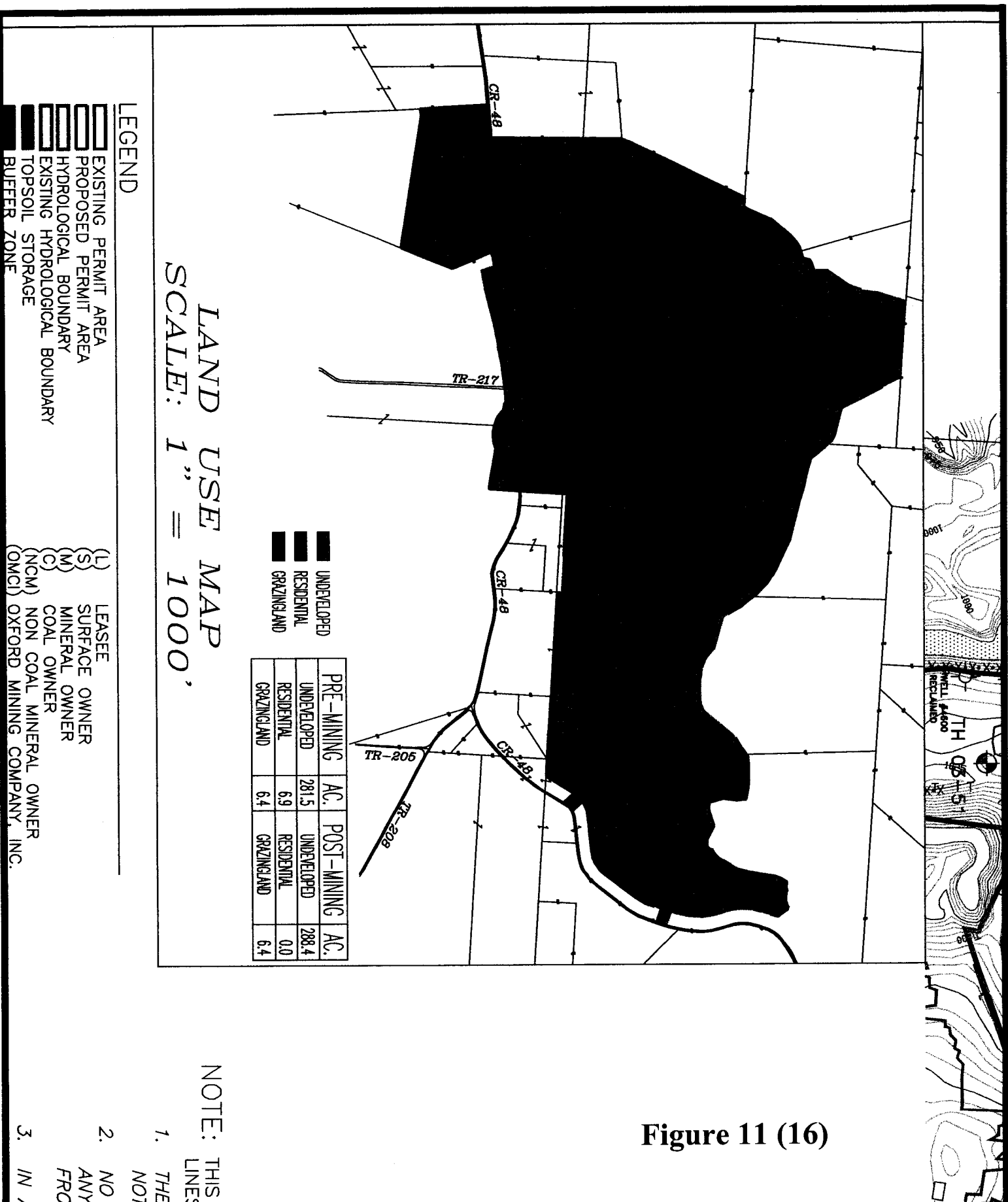
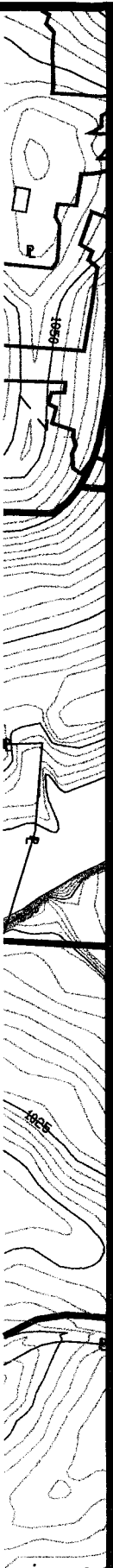


Figure 11 (16)





WETLAND SUMMARY	
I.D.	AREA, (AC.)
WL-1	0.14
WL-2	0.11
WL-3	0.05
WL-4	NOT IN PERMIT
WL-5	NOT IN PERMIT
WL-6	NOT IN PERMIT
WL-7	0.04
WL-8	0.16
WL-9	0.05
WL-10	0.10
WL-11	0.07
WL-12	0.13
WL-13	0.06
WL-14	0.17
WL-15	0.41
WL-16	1.69
TOTAL	3.18

WETLAND MITIGATION, AREA #1=1.22ac.; AREA #2=4.44ac.

NOTE: THIS MAP WAS PREPARED USING USGS QUADS, TAX MAPS & DEEDS. PROPERTY LINES ARE ASSUMED CORRECT, BUT HAVE NOT BEEN SURVEYED.

1. THE PROPER AUTHORITIES OF ANY UTILITY (OIL, GAS, ELECTRIC, PHONE, ETC.) WILL BE NOTIFIED PRIOR TO MINING, IF SUCH UTILITY WILL BE AFFECTED.
2. NO SURFACE MINING OPERATIONS WILL BE CONDUCTED CLOSER THAN 500 FEET TO ANY POINT OF AN UNDERGROUND MINE UNTIL JOINT APPROVAL HAS BEEN OBTAINED FROM THE CHIEF, OF THE DIVISION OF MINERAL RESOURCES MANAGEMENT AND MSHA.
3. IN ADDITION TO TOPSOIL STOCKPILES SHOWN ON PROPOSED PERMIT AREA,

Figure 12 (16)

PROP
PERMIT
NEW LEX NORTH
TOTAL

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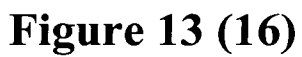
ACKN
OF

NEW LEX NORTH
PERMIT APPLICATION

A	B	C
D	E	F
G	H	I
J	K	L
M	N	O



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740-452-7434



PROPOSED AREA

PERMIT	LANDOWNER	SEC.	TOWNSHIP	COUNTY	AUGER	COAL	TOTAL
NEW LEX NORTH	OMCI	26	Clayton	Perry	00.0	58.5	89.3
	OMCI	27	Clayton	Perry	00.0	60.2	104.6
	OMCI	34	Clayton	Perry	0.6	28.9	30.2
	OMCI	35	Clayton	Perry	2.2	2.8	5.0
	G. & C. McCauley	34.35	Clayton	Perry	4.0	2.4	6.9
	Thomas Johnson	26	Clayton	Perry	00.0	10.8	39.7
	Charles W. Owen	34	Clayton	Perry	00.0	15.2	18.0
TOTAL					6.8	178.8	294.8
				CUMULATIVE TOTAL	6.8	178.8	294.8

"I, THE UNDERSIGNED, HEREBY CERTIFY THAT THIS MAP IS CORRECT AND SHOWS TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL THE INFORMATION REQUIRED BY CHAPTER 1513 OF THE REVISED CODE AND RULES ADOPTED THEREUNDER."

ACKNOWLEDGE BEFORE ME A NOTARY PUBLIC, ON THIS _____ DAY
OF _____, 20 ____

MY COMMISSION EXPIRES:

FEET TO
OBTAINED
AND MSHA.

NEW LEX NORTH PERMIT APPLICATION



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Civil Engineering Consultants
P.O. Box 2086 Zanesville, Ohio

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P.O. Box 2086 Zanesville, Ohio 43702-2086

A	D	G	J	M
B	E	H	K	N
C	F	I	L	O

UNDEVELOPED

 RESIDENTIAL

 GRAZINGLAND

PRE-MINING	AC.	POST-MINING	AC.
UNDEVELOPED	281.5	UNDEVELOPED	288.4
RESIDENTIAL	6.9	RESIDENTIAL	0.0
GRAZINGLAND	6.4	GRAZINGLAND	6.4

LAND USE MAP SCALE: 1" = 1000'

LEGEND

- EXISTING PERMIT AREA
- PROPOSED PERMIT AREA
- HYDROLOGICAL BOUNDARY
- EXISTING HYDROLOGICAL BOUNDARY
- TOPSOIL STORAGE
- BUFFER ZONE
- PRIME FARMLAND
- WETLAND MITIGATION AREA ± 5.66 AC.
- WETLAND AREA
- PUBLIC ROAD
- PROPOSED SEDIMENT POND
- EXISTING SEDIMENT POND
- AUGER MINING 6.9 AC.
- PREVIOUSLY MINED AREA
- EXISTING IMPOUNDMENT
- UNDERGROUND MINES
- PRIME FARMLAND STOCKPILE
- DRIILLED WELL (W)
- DRIILLED WELL WITH LOG (WL)
- DUG WELL (DW)
- DEVELOPED SPRING (DS)
- UPSTREAM SAMPLING SITE (U)
- DOWNSREAM SAMPLING SITE (D)
- CISTERN (C)
- WATER TREATMENT FACILITY
- SUMP
- GAS LINE
- OIL LINE
- OVERHEAD ELECTRIC (OHE)
- OVERHEAD TELEPHONE (OHT)
- UGT (UNDERGROUND TELEPHONE)
- PUBLIC WATER LINE
- FENCE LINE
- RADIO TOWER
- HIGH VOLTAGE TOWER
- NO SURFACE AFFECTMENT
- TRAIL

- (L) LEASEE
 (S) SURFACE OWNER
 (M) MINERAL OWNER
 (C) COAL OWNER
 (NCM) NON COAL MINERAL OWNER
 (OMCI) OXFORD MINING COMPANY, INC.
- x . x . x . x
 EXISTING HIGHWALL
 PROPOSED FINAL HIGHWALL
 BEGIN MINING
 END MINING
 COAL OUTCROP
 NO. 7 Upper Freeport (El. 989 to 1004)
 NO. 6 Middle Kittanning (El. 927 to 942)
 NO. 5 Lower Kittanning (does not outcrop)
- TEST HOLE
 SIGN
 OCCUPIED DWELLING
 UNOCCUPIED DWELLING
 COMMERCIAL BUILDING
 PERENNIAL STREAM
 INTERMITTENT STREAM
 EPHEMERAL STREAM
 DIVERSION DITCH
 SLOPE MEASUREMENT
 SEEPING ENTRY
 UNDERGROUND ENTRY
 SEEP
 EXISTING MONITORING STATION
 PROPOSED MONITORING STATION
 PUBLIC WATER SUPPLY SOURCE
 BACKGROUND SAMPLING SITE
 PROPERTY LINES
 OIL/GAS WELL (ACTIVE)
 ABANDONED/RECLAIMED/DRY OIL/GAS WELL
 CIRCLED LETTERS REFER TO "ANTICIPATED BLAST DESIGN"

Figure 14 (16)

NOTE: THIS LINES

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- NO ANY FRO
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- VEH

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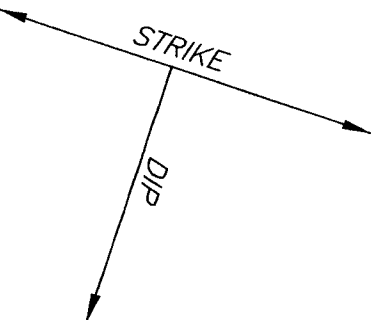
A	B	C
D	E	F
G	H	I
J	K	L
M	N	O

WL-15	0.41	ISOLATED
WL-16	1.69	ADJACENT
TOTAL	3.18	

WETLAND MITIGATION, AREA #1=1.22ac.; AREA #2=4.44ac.

NOTE: THIS MAP WAS PREPARED USING USGS QUADS, TAX MAPS & DEEDS. PROPERTY LINES ARE ASSUMED CORRECT, BUT HAVE NOT BEEN SURVEYED.

1. THE PROPER AUTHORITIES OF ANY UTILITY (OIL, GAS, ELECTRIC, PHONE, ETC.) WILL BE NOTIFIED PRIOR TO MINING, IF SUCH UTILITY WILL BE AFFECTED.
2. NO SURFACE MINING OPERATIONS WILL BE CONDUCTED CLOSER THAN 500 FEET TO ANY POINT OF AN UNDERGROUND MINE UNTIL JOINT APPROVAL HAS BEEN OBTAINED FROM THE CHIEF, OF THE DIVISION OF MINERAL RESOURCES MANAGEMENT AND MSHA.
3. IN ADDITION TO TOPSOIL STOCKPILES SHOWN ON PROPOSED PERMIT AREA, PROPOSED TOPSOIL STOCKPILE LOCATIONS WILL BE PLACED BEHIND MINING OPERATIONS AS MINING PROGRESSES.
4. NUMEROUS OIL AND GAS LINES CROSS THE SITE, BUT ONLY THE MAJOR LINES FOUND DURING A SITE REVIEW ARE SHOWN.
5. A 300' RADIUS "NO BLASTING ZONE" SHALL BE MAINTAINED AROUND EACH HIGH VOLTAGE TOWER.
6. VEHICULAR ACCESS WILL BE MAINTAINED TO THE HIGH VOLTAGE TOWERS AT ALL TIMES.



NO. 5, 6, 7 COAL (LOCAL)
(NOTE: REFER TO ADDENDUM TO PAGE 13, B)

Figure 15 (16)

INFO
AND

ACK
OF



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NEW LEX NORTH
PERMIT APPLICATION

A	B	C
D	E	F
G	H	I
J	K	L
M	N	O

INFORMATION REQUIRED BY CHAPTER 1513 OF THE REVISED CODE
AND RULES ADOPTED THEREUNDER."

ACKNOWLEDGE BEFORE ME A NOTARY PUBLIC, ON THIS _____ DAY
OF _____, 20 _____

MY COMMISSION EXPIRES:


Figure 16 (16)

FEET TO
OBTAINED
AND MSHA.

OPERATIONS

INES

ALL TIMES.

 **Linn Engineering, Inc.**

534 Market Street
Zanesville, Ohio
P.O. Box 2086
(740) 452-7434

OXFORD MINING COMPANY, INC.
P.O. BOX 427
COSHOCTON, OHIO 43812

TYPE OF MAP

- ☒ APPLICATION MAP ☐ INCIDENTAL BOUNDARY REVISION
☒ HYDROLOGIC MAP ☐ ABANDONED MINE LAND (AML)
☐ ADJACENT AREA MAP

STRIP MINE LOCATION

SECTION 26,27,34,35 T-16 -N R-15 -W
TOWNSHIP CLAYTON COUNTY PERRY
MINE NEW LEX NORTH STATE OF OHIO

PERMIT	APPLIC.	SCALE	CONTOUR	DATE	REVISED
	10314	1"=400'	5'	4/05	

NEW LEX NORTH
PERMIT APPLICATION



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A	B	C
D	E	F
G	H	I
J	K	L
M	N	O